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COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fifth session

SUMMARY RECORD OF THE 29th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 23 August 1993, at 3 p.m.

Chairman: Mr. AL-KHASAWNEH

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The meeting was called to order at 3.15 p.m.

THE NEW INTERNATIONAL ECONOMIC ORDER AND THE PROMOTION OF HUMAN RIGHTS:

(a) THE ROLE AND EQUAL PARTICIPATION OF WOMEN IN DEVELOPMENT (agenda item 7) (continued) (E/CN.4/Sub.2/1993/NGO/8)

THE REALIZATION OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS (agenda item 8) (continued) (E/CN.4/Sub.2/1993/15 and 16, 17 and Corr.1, 18 and Add.1; E/CN.4/Sub.2/1993/36; E/CN.4/1993/82; E/CN.4/Sub.2/1992/15 and 16, 50; E/CN.4/Sub.2/1992/WP.1; E/CN.4/Sub.2/1991/47; A/CONF.157/PC/73)

1. Mrs. PALLEY said that paragraph 28 of the report of the Working Group on Detention (E/CN.4/Sub.2/1993/22), which she read out, seriously misrepresented the view she had expressed on fatwas. What she had said was that, in many countries, fatwas issued by religious jurists were binding in law and, when a State tolerated a fatwa calling for somebody to be killed, that amounted to tolerating incitement to murder. She wished to point out that she was in no way opposed to the fact that religious jurists might be called upon to give opinions on different issues, as they were perfectly entitled to do.

2. The CHAIRMAN invited Mrs. Palley to submit a new version of paragraph 28 to the Secretariat, which would issue a correction.

3. Mr. ALFONSO MARTINEZ said it would be logical for experts to be able to consult a document summarizing their views before the document was published. Mrs. Palley was therefore perfectly right to demand a corrigendum if her views had been misrepresented.

4. The CHAIRMAN invited Mr. Hatano to make his final comments on the discussion on the report on population transfers which Mr. Hatano had prepared with him.

5. Mr. HATANO thanked all speakers who had commented on the report on population transfers and said that, for lack of time, he could only discuss the comments made by Mr. Chernichenko and Mr. Eide. Mr. Chernichenko had been quite right to say that one of the most difficult things in dealing with the question of the human rights dimensions of population transfers was how to overcome the popular notion that a State must be based on one nation. The "mono-ethnic State" ideology however still seemed to be dominant in many parts of the world, particularly where ethnic purification was rampant. Like Mr. Chernichenko, he himself considered that the present mandate of the United Nations High Commissioner for Refugees (UNHCR) would have to be expanded to include the power to deal with internally displaced persons. Pursuant to Article 2, paragraph 7, of the Charter of the United Nations, it would be necessary to obtain the prior consent of the State concerned. Yet it was difficult to believe that a State would agree to UNHCR intervention if it was itself responsible for internal displacement among its population. Again, internal displacements could occur in States where there were several groups fighting for power and it was difficult to single out a group from whom consent could be sought. It was therefore conceivable that, in some cases, UNHCR could undertake humanitarian activities without the consent of the States concerned. He agreed with Mr. Chernichenko that it was premature to

prepare a draft convention setting out the principles that should apply to population transfers. It would really be better to prepare a sort of draft declaration, which could be amended by members of the Sub-Commission at its next session. In any event, he completely agreed with Mr. Eide's proposal that it was important to prepare a complete legal framework for the issue. Lastly, the question of population transfers should be investigated in depth by special rapporteurs and he drew the attention of members to the recommendations contained in the report, particularly in paragraphs 383 and 384.

6. Mr. ALFONSO MARTINEZ, speaking in connection with agenda items 7 and 8, said that the economic and social situation of the countries of the Third World had deteriorated in recent years, in particular because of the nature of international economic relations which had become increasingly unfavourable to the developing countries. In that regard, the Commission on Human Rights had decided, in resolution 1993/22, to create a working group on the right to development to identify obstacles in the way of the exercise of that right and recommend ways and means of overcoming such obstacles. It should also be emphasized that structural adjustment programmes instituted by the international financial organizations were one of the main obstacles to full enjoyment of economic, social and cultural rights.

7. On the question of extreme poverty, he endorsed the definition given by Father Wresinsky in paragraph 33 of the report by Mr. Despouy (E/CN.4/Sub.2/1993/16). It was necessary, however, to go further and to look at the structural causes of extreme poverty, namely, an inequitable distribution of national resources, and an unjust international economic situation. In that connection it should be borne in mind that all countries were affected by extreme poverty. In the United States, for example, according to official statistics 15 per cent of the population lived in conditions of extreme poverty.

8. In his very comprehensive report on the right to adequate housing (E/CN.4/Sub.2/1993/15), Mr. Sachar had clearly demonstrated that that right must be regarded as a fundamental human right. There again it was necessary to get to the root of the problem and to identify the obstacles in the way of the realization of that right, whether it was a question of an inequitable distribution of national income or an international economic order which deprived States of the necessary resources.

9. Mr. TIAN Jin congratulated Mr. Despouy on his report on extreme poverty, from which it was clear, as the Vienna Declaration had reaffirmed, that human rights were indivisible. The causes of extreme poverty must be analysed, whether they were national or international, political, social, cultural or historical, if ways and means were to be found to put an end to that calamity. In that connection, the 1993 Report on the World Social Situation prepared by the United Nations Department of Economic and Social Development, the documents relating to the Paris Conference on the Least Developed Countries, and the report entitled "Challenge to the South" published by the South Commission headed by former President Nyerere of Tanzania, could be profitably consulted.

10. In his view the definition of extreme poverty given by Father Wresinsky was interesting but too abstract and not sufficiently precise. In that connection it might be recalled that, according to the 1993 Report on the World Social Situation, "of the 1,100 million poor, some 60 per cent are considered to be extremely poor, barely able to meet their minimum nutritional needs. Inadequate calorie intake makes them prone to disease, which, in turn, weakens their working capacity. A disproportionate share of them comprise women and children. They lack access to social services such as basic health and education and also to credit, information and improved technology. Consequently they are unable to enhance their earning 'capacity'". Such a description might be useful to Mr. Despouy in formulating his definition of extreme poverty. It was his hope that the in-depth analysis of extreme poverty made by Mr. Despouy would help to solve the problem.

11. Mr. SOKHONA (Mauritania), speaking in exercise of the right of reply, greatly deplored the fact that many NGOs brought accusations against States without even taking the trouble to verify the information on which those accusations were based. The African Association of Education for Development had claimed that, since the country's accession to independence, the black community in Mauritania had been the victims of racial discrimination. It should be noted that one of the uncles of the person who had made that mendacious allegation on behalf of the NGO in question, had presided over the National Assembly of Mauritania until his death. He had accordingly, been the second most important person in the State and, in that capacity, had acted as temporary President of the Republic on two occasions. Two other members of his family currently held high positions: one was Minister of handicraft trades and tourism and the other was Ambassador to Germany. He expressed the hope that NGOs would abandon sensationalist statements and instead benefit by seeking the truth; he was ready to cooperate with them in that connection.

PROTECTION OF MINORITIES (agenda item 17) (continued) (E/CN.4/Sub.2/1993/34 and Add.1-4; E/CN.4/Sub.2/1993/NGO/7 and 12)

12. The CHAIRMAN invited Mr. Eide to introduce his report on possible ways and means of facilitating the peaceful and constructive solution of problems involving racial, national, religious and linguistic minorities (E/CN.4/Sub.2/1993/34 and Add.1-4).

13. Mr. EIDE, introducing the report, said that the Sub-Commission must develop a broad action programme designed to eliminate racial, ethnic and religious discrimination and to promote the rights of members of ethnic, religious or linguistic minorities while respecting the territorial integrity of States. In recent years ethnocentric forces had been unleashed which, inspired by irrational hatred, had sunk into barbarity. Ethnic cleansing and territorial "purity" constituted a direct challenge to the very foundation of human rights, the principle that all human beings were born free and equal in dignity and rights. Confronted by that situation, the international community must develop its capacity for the prevention and maintenance of peace wherever necessary. If the aggression and carnage in Bosnia and Herzegovina were to be repeated, the Secretary-General's recommendations in his Agenda for Peace must

be implemented as a matter of urgency. States must also be encouraged to ensure, on the basis of international law, that no member of an ethnic, religious or linguistic minority was given the impression that he was a second class citizen or resident.

14. The tragic conflicts currently taking place should not be allowed to overshadow the fact that in many regions of the world different groups coexisted peacefully while maintaining their identity. Moreover, many States were striving to promote the rights of minorities. That was the case notably in Hungary, which had just adopted an interesting law on minorities, and in Romania, which had established a Council for National Minorities. In Latin America too, the situation of minorities was developing favourably. A clear definition of the rights of minorities placed explicit limits on the power of majority groups, which might otherwise attempt to abuse their position. The principle of equality must always be respected and the State must remain the common home for ethnic, religious and linguistic groups residing in it. Apartheid in South Africa had demonstrated how an intolerant and intransigent minority could prevent the majority from exercising equal rights.

15. Nearly all States were pluri-ethnic and pluri-religious and the problems of minorities could not be solved by creating ethnically "purified" States as was happening in Bosnia. The Sub-Commission must propose to States and the international community means of guaranteeing equality and dignity for all, while respecting the territorial integrity and political stability of States.

16. His report was structured in two parts, along with Addenda 1, 2, 3 and 4. Part I laid out the major questions and proposed a framework for possible solutions, while Part II dealt with current practice, on the basis of the replies to his questionnaire which were summarized in Addenda 1, 2 and 3, as well as in the annexes to the two first progress reports he had submitted. Those reports should be seen as a coherent whole. Finally, Addendum 4 contained a series of recommendations concerning situations that threatened minorities.

17. He regarded a number of elements in his report as essential. The question of the definition of a minority had been addressed first and he had reached the view that a purely numerical reply was not a proper response. One could speak of a minority when tensions existed between the majority and one or more minorities. It was therefore essential to investigate the causes of such tensions and to acknowledge that some grievances were reasonable while others were not. It was then necessary to determine the nature of the claims on the basis of the international human rights system. He had been able to identify three. First, there were the claims of minorities that were victims of discrimination - individuals or groups which, by reason of their cultural or physical characteristics, were rejected and might fear for their security. There were particularly serious cases of that type and in that connection he cited recent cases involving immigrant workers in western Europe. There could also be discrimination of an economic nature, such as discrimination in employment and in housing. In responding to those situations, recourse must be had to mechanisms guaranteeing equality for all, such as the Convention on the Elimination of All Forms of Racial Discrimination, among others.

18. The second set of claims involved claims of identity. Such was the case when a minority claimed not to be able to retain its identity as reflected in its language, religion and cultural practices. The recent Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities might represent a response to those claims - to the extent that they were justified. It was to be hoped that in the future it would be easier to resolve such problems in a peaceful manner. Finally, there were territorial claims which might, for example, be confined to a demand for autonomous local government in which customary laws would apply; such claims could, in most cases, be addressed within the framework of recognized provisions of international law. If the claim went beyond that stage, it would amount to one for dismemberment and secession with a specific minority wanting to be joined to an already established State or to create a State of its own.

19. He had been asked to find constructive solutions for such situations and demands. In part I, B, paragraphs 49 to 72 of his report, he had attempted to outline a possible "peaceful and constructive" solution. First, there was the very controversial issue of the right of peoples to self-determination. Under article 1 of the Covenant, self-determination was clearly a right of peoples. The Programme of Action adopted by the World Conference on Human Rights, held at Vienna, had confirmed that general principle. Two points none the less were still pending: on the one hand, the definition of the term "people", and on the other, the scope of self-determination. He welcomed the position adopted at the World Conference, which he endorsed, to the effect that a people which was a victim of foreign and colonial domination had the right to self-determination, which could go as far as a claim for independence if the "people" in question so wished. It should nevertheless be emphasized that it must be the whole of that "people" that made the claim, not various ethnic groups. As far as he was concerned, it was a crucial distinction and he regarded the claims for self-determination of ethnic groups as a particularly dangerous phenomenon because such claims led almost invariably to draconian measures which could range from refusal to grant citizenship to the members of certain ethnic groups to massacre and ethnic cleansing. At the conceptual level the idea that a nation should be ethnocentric raised a real problem, as was evident from events taking place in Bosnia and Herzegovina and in Transcaucasia.

20. He went on to outline the framework of a peaceful and constructive solution, which was set out in section E of the report. It was the State which must protect and promote human rights. The State had to do everything possible to eliminate discrimination and it had a large number of international instruments at its disposal for that purpose. It must also guarantee pluralism in togetherness, so that the various groups could retain a certain degree of identity and it was at that point that the new United Nations declaration would come into play. Lastly, the State could, if need be, guarantee some degree of territorial subdivision (some examples of which were given in part II of the report). In that connection he had singled out the Convention on the Rights of the Child, which he regarded as the best existing mechanism inasmuch as it called for education for tolerance and respect for different cultures. Provided it was taken seriously and was fully implemented, that Convention raised hopes for a better world in the future.

21. Addendum 4 to his report contained recommendations relating, first, to measures to be taken at the national level. Such measures should be designed in particular to guarantee the right to education, language and culture but also guarantee civil rights, economic and social rights, political participation and also certain constitutional arrangements. Again, minorities certainly had rights, but they also had responsibilities. In that connection he referred to article 8 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, which stipulated that the Declaration could not be construed as permitting activities contrary to the principles of the United Nations, including, the principles of sovereign equality, territorial integrity and political independence of States.

22. In regard to measures to be taken at the international level, he had first addressed bilateral relations within the framework of which States should respect the principle of non-intervention, even - and especially - when issues of national minorities were involved. The United Nations and its specialized agencies, as well as the financial institutions, could play an important role in the prevention of conflicts; they were also well placed to alert the international community to explosive situations. Non-governmental organizations, too, could play a constructive role in that they were in closer contact with minority groups than were inter-State organizations and they could develop a more constructive dialogue. On the other hand, they must absolutely refrain from any act of discrimination, xenophobia or hatred capable of inciting violence against other groups. In his opinion, there was a special function for religious non-governmental organizations, which could acknowledge their responsibilities for the prevention of reactions of religious intolerance or hatred. For example, the Muslim population of Mostar was now cut off from humanitarian aid. The Holy See and the Catholic Church could intervene with the populations concerned, in the present instance the Catholic Croats, so that such food aid could be dispatched.

23. Lastly, he had reflected on the role of the Commission and the Sub-Commission. The latter had a dual mandate, namely, to combat discrimination and to protect minorities. He had given much thought to which organ would represent the better mechanism to ensure the follow-up to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.

24. The Sub-Commission could perhaps carry out two studies, one of them on the question of nationality laws (citizenship), an area in which serious problems arose and where the position of minorities was liable to be weakened; such laws certainly related to the internal affairs of States, but their consequences were such that the international community could not disregard them. The other study would cover the use of indicators to monitor the rights of minority groups.

25. His report also included recommendations on the Centre for Human Rights, particularly the use of consultative services and technical assistance.

26. Lastly, his report was a final report and, as such, should be communicated to the Commission. However, it would not be pointless for the Sub-Commission to make a closer examination of the ways in which it could help to find solutions for that complex range of issues and of its ability to advise other United Nations bodies.

27. Mrs. WARZAZI said she welcomed the impartiality and sense of reality of Mr. Eide's report, to which it would be impossible to do justice at the present session. She proposed that the Sub-Commission should take a decision to consider the report in depth next year.

28. The CHAIRMAN supported Mrs. Warzazi's proposal. He would also like to inform the Sub-Commission that, in reply to the letter which he had sent to the United States Government regarding the incident which had taken place at the Mexican border, he had received a letter from the United States Chargé d'Affaires, a copy of which would be circulated to members.

29. Mrs. PALLEY said that she, like Mrs. Warzazi, thought that lack of time would make it impossible to do justice to Mr. Eide's study, which was a distinguished and significant report seeking to identify the basic reasons for human rights violations in ethnically mixed societies. Mr. Eide had started his study in 1989, at a time of different power configuration and a stability given by the old East-West ideological divide. The report had been completed in 1993, in a world in which States were dissolving and human rights violations were widespread and intense.

30. Mr. Eide's approach was close to that of the Secretary-General of the United Nations, who, in an article published in the International Herald Tribune of 20-21 August 1993, had written that ethnic and micro-nationalist groups needed to realize that justice and prosperity could not be attained in a world made unworkable by endlessly splitting factions. Factions could not expect to undermine the political institutions in which they existed while claiming the privileges of a sovereign State. The quest to establish one ethnicity on one territory had been revealed for what it was, a generator of ethnic cleansing and crimes against humanity.

31. Mr. Eide's report crystallized the issues and established the framework of principles and institutions for approaching minority problems constructively. She paid a warm tribute to Mr. Eide for the quality of his work. There were, however, three points on which she wished to comment. First, she did not share Mr. Eide's view on self-determination; second, she considered that the report did not devote sufficient attention to the concept of autonomy and, third, she deplored the absence of a detailed model study of helpful positive practices which would enable minorities to live peacefully in the State in which they existed. The lacuna on the third point could be attributed to lack of Secretariat resources. Governments could perhaps compensate for that weakness and in that connection she quoted several examples of countries which could help towards a better understanding of how it was possible for societies to avoid disintegration. For example, Finland could provide a detailed study on the Åland Islands, Germany and Denmark on

Schleswig Hostein, and Italy and Austria on Trentino-Alto Adige. Although the current climate was unfavourable to it, the concept of autonomy had advantages in that it was a preventive mechanism which could halt claims for self-determination.

32. Mr. Eide's treatment of self-determination was interesting in its suggestion of a major role for the Committee on the Elimination of Racial Discrimination and for the regional human rights bodies. There was also a useful reminder that minority questions must not be confused with questions of discrimination; nor must the questions of the rights to practice religion, to preserve culture and to use one's language be confused. Minority questions ought to be kept as questions of arrangements to ensure the individual rights of persons who were members of minorities: that was the approach of the new Declaration. In extreme circumstances, when a minority was also a people - and she recognized the difficulty of a definition - claims for self-determination could be justified. The issues were very delicate and the question of knowing whether a minority was also a people could not be left to a merely subjective decision. It was an objective matter for international law. What was needed was to create machinery through which the international community could take such decisions; the International Court of Justice might well take on that task, bearing in mind that, on the Namibia and Western Sahara cases, it had proved that it could take very balanced positions. The issue of self-determination, which was a concept in constant evolution, should be settled by a judicial process. Lastly, she hoped that all members would read Mr. Eide's report very carefully, as it raised so many crucial questions.

33. Mr. MAXIM thanked Mr. Eide for having nominated him to comment on what was an excellent report. Particular note should be taken of the constructive approach adopted by Mr. Eide and the realism of the solutions proposed for the problem of minorities within the generally accepted concept of human rights. Mr. Eide had emphasized the need for ethnic, linguistic and religious minorities to live in peace and harmony with the majority population in the State in which they lived in conditions of total equality, both de facto and de jure. Mr. Eide had also stressed the fact that it was essential to reject separatist action taken on grounds of origin or ethnic purity or linguistic or religious homogeneity. Notwithstanding the tragic examples he had presented, Mr. Eide remained an optimist, convinced that it was always possible to find appropriate solutions to delicate problems that would be satisfactory to all parties concerned.

34. Mr. Eide had based his study on a detailed and systematic analysis of all existing international standards adopted by the United Nations, CSCE and the various regional organizations. He had also reviewed the most recent situations of conflict and had drawn realistic conclusions. The definition of minorities he had opted for, which was very broad as it comprised not only the citizens of a country but also resident foreigners, was interesting and possibly appropriate, but it should not be forgotten that, from the legal point of view, they were two different categories of people who consequently had different rights and obligations. Mr. Eide had also studied the difficult situations in which persons belonging to minorities could find themselves when they were manipulated by unscrupulous extremists; he had drawn a distinction between legitimate claims linked to the human rights of those minorities and claims which, under cover of those same rights, really hid territorial

ambitions. The experience and teachings of history led Mr. Eide to the conclusion that the rule was necessary to work ceaselessly to introduce and maintain peaceful and harmonious coexistence between minority groups and the majority population in their common home, namely, the independent and sovereign States in which they lived. For that purpose, it was essential that the rights and dignity of all should be respected, without any distinction as to race, colour, ethnic origin, religion or language or the ethnic, cultural and religious identity of members of minorities, and to ensure the well-being of all in the common homeland. In that connection, it would also have been useful to mention each citizen's duty of loyalty towards the State in which he lived, a duty that was required in the constitution in many States. Non-application of the rule of peaceful coexistence generally led to violence and conflicts such as those seen at the present time. Nevertheless, Mr. Eide was right to point out that what was happening in former Yugoslavia and in the former Soviet Union was not typical and should not lead to the belief that ethnic violence was inevitable. It was always possible to solve problems by peaceful means yet guarantee each individual and each minority group equality of rights and respect their identity within a democratic society. Like Mr. Eide, he thought that the only constructive approach to minority problems had to be in accordance with the basic requirements of international law and world order. In that connection responsibility undoubtedly lay with States.

35. He had noted with interest the paragraphs of the report relating to self-determination for minorities living in the same territory as populations of a different ethnic origin. In his view, however, the concept of internal autonomy was very imprecise and, moreover, did not exist in international law; it led to confusion and the risk of erroneous interpretations. To agree that every ethnic, religious or linguistic group formed a separate State would lead to the fragmentation of countries and would endanger peace, security and the well-being of all. He also had doubts regarding the justification of the argument set out in paragraph 84 of the report that a minority group should have the right to request and obtain autonomy if it considered that the Government in power was not representative of the entire people. Should then the blacks of South Africa demand independence because the South African Government was not representative? For various reasons, that theory was not acceptable.

36. After setting out the principal international provisions dealing with minorities, Mr. Eide proposed a framework for peaceful and constructive solutions of situations involving minorities. That framework consisted primarily of States, which were sovereign and must cooperate in order to find solutions for the problems of minorities and ensure their full integration in society as well as their participation in the conduct of public affairs under conditions of equality and non-discrimination.

37. In part II of the report, Mr. Eide had included a number of situations which illustrated the use of different measures for the benefit of minority groups in order to eliminate the inequalities they suffered from to ensure their protection and guarantee their effective participation in the life of society and their right to make and maintain contacts with similar groups in other countries. From those examples, States as well as international organizations could learn much and reach valuable conclusions. Lastly, the report contained a very interesting analysis of the causes and dynamics of

inter-ethnic conflicts which demonstrated the crucial importance of prevention, as well as the sinister impact of certain exclusionist theories to which extremism could give rise. All in all, the report was an appeal for tolerance and moderation and for education to that end.

38. He fully supported all of Mr. Eide's recommendations in document E/CN.4/Sub.2/1993/34/Add.4. On the issues of education, language and culture, however, account should also be taken of the obligation on persons belonging to minorities to learn and become familiar with the official language of the State in which they lived as well as the culture of the majority population so that they could participate properly in the life of the society of which they formed part. As to measures to be taken at the international level, he supported the proposals contained in paragraphs 25, 26 and 27 and, in that connection, wished to point out that provisions on the protection of minorities were included in all the draft bilateral treaties which his country, Romania, had negotiated with other States. The recommendation that a task force be set up, without financial implications, to present suggestions for an outline of such a programme was useful and reasonable and should be supported. The same was true of the recommendation in paragraph 44 that the Commission on Human Rights should consider establishing a working group on minority issues with a mandate to develop more specific guidelines for the implementation of the Declaration adopted by the General Assembly in 1992. He congratulated Mr. Eide warmly for the remarkable work he had done.

39. Mrs. FORERO UCROS said that the theme of Mr. Eide's study reflected the reality of the times, marked by so many ethnic and religious conflicts. In order to resolve the problems of minorities in a peaceful and constructive manner, the international community must try to put an end to such conflicts through dialogue and negotiation, while respecting the principles of tolerance and coexistence. The demise of colonialism, the accession of many countries to independence, and more recently the end of the cold war, had not led to the results hoped for by many victims of discrimination and oppression who still could not exercise their rights and live in dignity. Moreover, racism and xenophobia, which had been thought to have disappeared, were on the return throughout the world, and the first victims were migrant workers, whose situation was a result of an imbalance between countries in terms of social, economic and cultural development. States must therefore take measures to prevent racism and xenophobia, which were the sources of conflict, and achieve peaceful coexistence between the various ethnic, linguistic and religious groups of the population. The ideal society was pluri-ethnic, pluri-lingual and pluri-cultural, one in which the State would maintain its sovereignty and unity yet recognize the diversity and rights of the different minority groups. The political participation of everyone in the life of the country and the introduction of local and decentralized forms of government contributed to the stability of a national society in which minority rights were respected. It was therefore essential to ensure substantial participation by minorities in representative bodies. Good results had been obtained in that regard in Latin America, where indigenous peoples had contributed to the creation of pluri-racial, pluri-cultural and pluri-lingual societies. The indigenous heritage was now an integral part of the Latin American identity. In Colombia in particular, the participation of indigenous minorities in the political,

social and economic life of the country was based on legal and constitutional foundations and went hand in hand with recognition of the pluri-ethnic character of society, which meant that greater autonomy was given to indigenous populations in the administration of their territories.

40. She agreed with Mr. Eide's recommendation that a working group should be set up in the Sub-Commission for the preparation of a general programme of action consisting of measures to guarantee the rights of members of minorities, on the understanding that the principle of territorial integrity and the maintenance of the political and social stability of States must be respected, consistent with the original mandate of the Sub-Commission. The international situation was such that full attention must be paid to the peaceful solution of conflicts involving minorities and, in particular, to means of preventing them. Coordination of the efforts of all United Nations organs and specialized agencies were essential for that purpose.

41. Mrs. CHAVEZ said she wished to join those members who had congratulated Mr. Eide on an exemplary report, on a careful analysis of the issues and on the calibre of the recommendations made. As to measures to be taken at the national level in the field of education, language and culture proposed in paragraphs 8 to 12 of Addendum 4, more emphasis should be placed on the need for members of minorities not only to be educated in their own language and about their own culture but also to have access to the languages of the country in which they lived. Situations could differ greatly from one country to another. In the United States, the linguistic minorities currently accounted for between 4 to 5 per cent of the population and their number was on the increase because of the influx of immigrants from Latin America and Asia. The education of their children posed great problems. In California, for example, there were 160,000 children whose first language was Spanish and the trend towards teaching them first in their own language finished up by being an obstacle to full integration into American society. It might well be said that the segregation of Hispanic-American children was currently greater than 20 years ago and the problem was getting worse. It was therefore essential to make sure that members of minorities not only had the right to use their own language but had equal access to the official national language. That was a question to which appropriate attention should be given.

42. Mr. GUISSE said he supported Mrs. Warzazi's proposal that consideration of Mr. Eide's report should be postponed until the forty-sixth session of the Sub-Commission, in 1994, partly because it was very long and merited close study and partly because only the English version was available, something which could pose a problem for the French-speaking experts. He could, for all that, say straight away that the report was very comprehensive and well structured, which was not surprising in view of Mr. Eide's professional qualifications and his devotion to the noble cause of human rights. Mr. Eide had rightly emphasized the importance of education and information as a means of forestalling ethnic or religious hatred and intolerance. Those were actually the best mechanisms available to States and non-governmental organizations in securing a lasting peace based on tolerance and understanding between nations. Mr. Eide had also raised a crucial problem. Minorities did have the right to recognition of their physical and cultural identity and to the protection of their language and culture by the State in which they lived, but that did not mean they had the right to self-determination, which would of

necessity imply a fracturing of national unity. Minorities also had obligations which permitted them to live in a society by respecting national sovereignty and the security of the nation. They should participate in the overall development of the country and benefit from the positive results of such development. Problems concerning minorities would clearly be the most important issues to be faced in the twenty-first century and it would therefore be useful if Mr. Eide could study in greater depth the vital issue of the rights and duties of minorities in the society in which they lived.

43. Mrs. ATTAH congratulated Mr. Eide on the serious approach adopted to his task. It was gratifying that his report highlighted the obligation on States to take measures to respond to minority needs. Regarding the position of the Vatican on the situation in former Yugoslavia, to which Mr. Eide had referred, she wished to point out that His Holiness Pope John Paul II had, on many occasions, drawn the attention of the world to the situation in Bosnia and, on two occasions, had invited religious groups to Assisi in order to demonstrate solidarity between the various religions. The Pope had also raised the question during his recent visit to Denver. It should perhaps be borne in mind that, as a religious head, his powers were very limited and that his role was essentially to preach and pray.

44. Following a procedural discussion in which Mrs. PALLEY, Mrs. ATTAH, Mrs. WARZAZI, Mr. ALFONSO MARTINEZ, Mr. MAXIM and Mr. YIMER took part, the CHAIRMAN proposed that consideration of agenda item 17 and the discussion on Mr. Eide's report should be postponed until the forty-sixth session of the Sub-Commission, in 1994.

45. It was so decided.

46. Mr. EIDE said that he welcomed the comments by Mrs. Palley and Mr. Maxim on his report. He recognized that the Sub-Commission should, as a matter of urgency, study some of the points raised by Mrs. Palley. Regarding the question of loyalty raised by Mr. Maxim, he had pointed out in his report that minorities, like majorities, had a responsibility towards society as a whole. Concerning internal autonomy, referred to in paragraph 84 of the report, he himself had reservations, as it was a very ambiguous concept. He had nevertheless pointed out that the problem of the Blacks in South Africa was different from that of ethnic minorities. They actually constituted the majority and, for them, it was not a question of exercising their right to self-determination but of installing a democratic regime in which their rights would be recognized and respected. All options should, however, be considered in the case of minorities, including the possibility of setting up a new government which respected human rights. Like Mrs. Chavez, he thought that it should be possible for minorities not only to be educated in their own language but also to have access to the official languages. Perhaps that had not been brought out very clearly in the report because he had wanted above all to stress the fact that minorities should always receive education in their own language and about their own culture. In response to Mrs. Attah, he wished to say that his comments regarding the Vatican had been intended only to illustrate the special situation of the Muslims of Mostar. It was his hope that the Catholic Croats would recognize the need to do everything possible to ensure that the Muslim population of the region did not die of hunger. In conclusion, he thanked all speakers for their comments and hoped that they

would give careful consideration to all the recommendations which he had made in his report and which were incorporated in the resolution prepared on the subject.

47. Mr. BOELE (International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities) condemned all violations of human rights, especially the institutionalized repression of minorities, wherever they occurred. In that regard, the Greek minority in Albania continued to be a victim of such violations, through population transfer and a policy of assimilation carried out by the Tirana regime. Those violations were contrary to the Corfu Protocol, signed by Albania in 1914, granting the Greek minority autonomous status, and to many other agreements and conventions on minority rights. The forced expulsion of a Greek Orthodox priest from the town of Argyrocastro on 25 June 1993 was therefore particularly alarming. Various international organizations had expressed their concern to the Albanian authorities about the incident, which threatened the region's stability. Such occurrences obviously cast doubt on the claims of the Albanian president, Salia Berisha, that Albania's standards for dealing with minorities were among the most progressive.

48. Mr. BALIAN (Human Rights Advocates) said that the Special Rapporteur's study included an exhaustive and useful compilation of international human rights law concerning minority rights, as well as a very full discussion on the right to existence and identity. His organization particularly welcomed the Special Rapporteur's recommendation that the Sub-Commission, the Commission on Human Rights and the Centre for Human Rights should be more active in promoting and protecting the rights of minorities. The recommendation that a working group on minority issues should be established within the Commission on Human Rights could only be applauded. His organization also supported the recommendation that a task force should be set up within the Sub-Commission to prepare a comprehensive programme of action to promote minority rights.

49. Actually, the report did not really propose any ways of facilitating the peaceful and constructive solution of problems involving minorities where conflicts were already manifest. The Special Rapporteur relied on the good will of States to discharge their obligations towards minorities and hoped that new generations would adopt a more positive attitude towards them. With that optimistic outlook and, despite the historical record which showed that States had rarely displayed any good will towards minorities, the Special Rapporteur built a framework of solutions based on the principle of respect for the territorial integrity of States. He ended with generalizations about the exaggerated role of the so-called "ethnic entrepreneurs" who threatened that territorial integrity. The Special Rapporteur conceded that some minorities should have the right to self-determination, provided they proved, beyond reasonable doubt, that the State was possessed of a government not representative of the entire population and there was no prospect in the foreseeable future of it becoming so, a condition that it was virtually impossible to satisfy. Lastly, he thought that the Special Rapporteur's report was much too "Euro centred".

50. Mr. ATTAYOUB (International Association of Educators for World Peace) said that, since 1990, the repression of the Tuaregs in Mali and Niger had escalated into veritable genocide. In Niger, over 300 Tuareg cadres and traditional chiefs had been arrested in August and September 1992, without any lawful procedure and solely on the grounds that they belonged to a particular ethnic group. In Mali, although an agreement had been signed granting some autonomy to the northern regions, no significant change had been observed. The threat looming over the Tuareg people was serious enough to cause concern in the Sub-Commission as well as the Commission on Human Rights and fully justified the appointment of a Special Rapporteur whose work would help people to understand what was happening in that part of Africa.

51. Mrs. BOUVIER (Minority Rights Group) said her organization recommended that the Sub-Commission should recognize its strategic importance on minority issues and review its agenda and allocation of time to reflect its role and title, namely, the Sub-Commission on "Prevention of Discrimination and Protection of Minorities"; that it should undertake a study to evaluate what mechanisms the United Nations should develop to hear claims for internal and external self-determination before intercommunity conflicts broke out; that it should draw the Secretary-General's attention to any evidence it had received of many potential conflicts involving minorities; and that it should propose to the Commission on Human Rights the establishment of a permanent working group to study the implementation of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, whose sessions could be attended by representatives of those minorities.

52. Mrs. FARHI (International Council of Jewish Women) said that the term ethnic group, which was currently so popular, replaced by a clever shift, the demystified concept of race, which was thus voided of its biological character. However, it placed undue emphasis on physical factors combined with cultural features to characterize so-called "ethnic" groups. The word "people" was even more controversial, as the right to self-determination was itself interpreted in different ways and sometimes wrongly and dangerously. In introducing his new report, Mr. Eide said that national societies would become increasingly pluralistic, because of the impact of human rights and democracy. However, that could only take place if the universality of rights was defended against all comers. In fact, the moral and cultural relativism which seemed to be spreading more and more in various regions of the world brought with it intolerance and discrimination. On that subject, paragraph 66 of Addendum 4 to Mr. Eide's report, it was stated that the NGOs should promote the conditions for the preservation of separate identities. That wording appeared to glorify specificities, as if being different was in itself something of value. The exacerbation of the right to be different was a concept that all the racist and nationalist movements in Europe had gladly seized on to justify differences in rights.

53. Again, in paragraph 93 of the report, it was pointed out that the minorities should not be forced to conform to the dominant culture and therefore to give up their identity. She found, however, that certain restrictions on cultural and religious freedoms should have been more specific. There were in fact cases in which a minority's cultural or religious traditions could clash, or be incompatible, with the dominant culture, thus giving rise to a dichotomy that was difficult to manage at the

social level. In that way, certain traditional practices, that were harmful to the health of women or children, could not be tolerated by Governments which were responsible for the well-being of all their nationals without exception. Certain groups had customs that could constitute a serious violation of the individual and fundamental rights of women. Should the women not be in a position to demand full enjoyment of their rights? Should the collective rights of the minorities be given preference, as some believed, to the detriment of the rights of the woman as an individual?

54. She fully subscribed to the conclusions of Mr. Eide's report and stressed the importance of the problems of citizenship in the regions or countries which had recently undergone dramatic changes.

55. Mr. VAN WALT (Pax Christi International) said that, in recognizing the problem of minorities in his report, Mr. Eide had taken the right step. However, in the careful analysis of the causes of what he called "minority situations", he had made some unwarranted generalizations. The report gave the impression that the unjustified resentment and ambitions of groups of "ethnic entrepreneurs" lay at the root of most conflicts between minorities and Governments or between different ethnic groups. As it was, in the overwhelming number of cases the cause of the tensions and conflicts involving minorities, not only in Europe, but also in Africa, Asia, the Americas and the Pacific, was the ill-treatment of minorities by those in power.

56. By stressing the need to respect the territorial integrity of States rather than the duty of States fully to respect, and to protect minority rights, the report was conveying a dangerous message that strengthened the position of States vis-à-vis minorities. That message meant, in fact, that, for many minorities, the only way to have their security guaranteed by the international community was to have a State of their own. Independence, the magic word, became the only guarantee of survival. That kind of message could well result in an increase in secessionist movements.

57. Mrs. MARTENSEN (International Movement against All Forms of Discrimination and Racism) said that it was unfortunate that the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities was not accompanied by mechanisms for implementation or even a programme of action. Consequently, it might well take years before minority rights were really recognized. Moreover, six of the Declaration's nine articles granted rights to the almighty State over persons belonging to minorities. Indeed, the Declaration answered neither the real needs nor the problems of minorities, who did not benefit from equal enjoyment of human rights and who were subjected to economic, political and cultural domination.

58. Her organization commended all the measures proposed at the national level to ensure respect for minority rights in the economic, social and cultural fields, especially in regard to human rights education. At the international level, it would be useful for a programme of action to be prepared, for a working group to be established and for thematic rapporteurs to be appointed and the necessary measures taken, so as to attain the stated goal of establishing minority rights.

59. Mrs. PARKER (International Educational Development (IED)) said that many of the conflicts in the world were caused by the failure of Governments dominated by one or another racial or ethnic group to promote or protect the rights of other racial or ethnic groups. Mr. Eide's report was disappointing for several reasons: it focused primarily on preventive measures, whereas it would have been more useful to focus on the methods to put a stop to the wars and conflicts; it did not use humanitarian law as the proper legal framework. Furthermore, the Special Rapporteur appeared to attribute ethnic tensions or conflicts to the efforts made by the victims to defend themselves and to regard those efforts as non-legal, emotionally charged concepts leading to ethnic violence, terrorism or unjustified claims to the right to self-determination fanned by ethnic entrepreneurs. That method of work failed to take into account the fact that certain wars were, in law, civil wars and should be analysed as such. In the name of territorial integrity, it prevented a scrutiny of claims to the right to self-determination and an impartial legal analysis, by asserting that such an analysis would imply support for violence.

60. Some States, where wars had broken out over political and ethnic differences, were States created by colonial administrations out of pre-existing separate States. Sri Lanka was one example. In fact, the colonial Power should have returned the island of Ceylon to its pre-colonial status, or, at least consulted the International Court of Justice as to whom Ceylon should be ceded. That was the course adopted by Spain in respect of the Western Sahara and, in that case, the Court had ruled that its pre-colonial status should be taken into consideration in evaluating the claims for the right to self-determination.

61. Mr. SID-BILAL (International League for the Rights and Liberation of Peoples) said that he was concerned about the survival of the Hadzabe people, one of the last hunting and gathering societies in Tanzania. At present, the some 2,000 Hadzabe survivors were a minority in their own land. In 1989, they had been virtually driven out of their settlement, where the only reliable source of water was to be found during the dry season. Farmers had occupied their lands, burning the bush which had once been a source of abundant game, in order to make way for corn or grazing land for cattle.

62. Although Mr. Eide's report was to be welcomed on the issue of the protection of minorities, it should have focused more on the methods used by States to implement the measures for the protection of minorities.

63. Mr. BENHIMA (Observer for Morocco), speaking in exercise of the right of reply, said that certain non-governmental organizations under various agenda items had raised the so-called question of the "Western Sahara". In his view, Centre Europe-Tiers Monde and Pax Christi International in particular, were concealing and manipulating the facts. Morocco was in the Sahara not as a result of military conquest but pursuant to the Advisory Opinion of the International Court of Justice, delivered in October 1975, which recognized that there were ties of allegiance between the Kingdom of Morocco and the territory of the Sahara. In his statement on the subject, the representative of Pax Christi International had not referred even once to the latest report of the Secretary-General of the United Nations, dated 28 July 1993 (S/26185). In the report, it was pointed out that the Chairman of the Identification

Commission had already begun the process of identification and registration of voters for the referendum and that a UNHCR liaison officer had been appointed to the Commission. That was clear evidence that the settlement plan was moving ahead properly.

64. It had also been claimed that Morocco was carrying out population transfers in the Sahara in order to distort the results of the referendum. It was an insult to the United Nations, the Security Council, the Secretary-General and his Special Representative to make such a senseless claim. In fact, thousands of Saharans who had been detained for years in the POLISARIO camps were being sent back to Morocco to proclaim that they were Moroccan. In the name of what law could they be refused the right to return to the Sahara?

65. The whole world praised Morocco for the great effort it had made to ensure the economic and social development of the Saharan provinces. Two billion dollars had been invested there since 1976. Morocco had striven to enhance the natural and human resources and to make a radical change in the living conditions of the population, through a bold policy in primary, secondary, vocational and technical education, housing and health.

66. Mr. ADALI (Observer for Turkey), speaking in exercise of the right of reply, pointed out that the persons responsible for the Cypriot crisis were none other than the Greek Cypriots. As to the figures quoted by the representative of the Greek Cypriots and by the Special Rapporteur regarding the migratory movements observed in Cyprus, he would remind the Sub-Commission of the document which had been submitted at its forty-fourth session and which provided all the necessary information for a better understanding of the intricacies of the Cypriot problem.

67. Mr. MACRIS (Observer for Cyprus), speaking in exercise of the right of reply, said that the observer for Turkey had tried, once again, to divert the attention of the world from his country's responsibility for the violations of human rights perpetrated in Cyprus. Turkey was responsible, inter alia, for an attempt to alter the demographic composition of the population of the part of Cyprus occupied by its armed forces, by means of a massive population transfer and the settlement of Turks from the mainland. In point of fact, the Republic of Turkey had inherited the methods of the Ottoman Empire which, from the fourteenth century, had pursued a policy of forcible population transfer and replacement of those populations by Turkish citizens.

CONSIDERATION OF DRAFT RESOLUTIONS AND DECISIONS

Draft resolutions submitted under agenda item 6 (continued)

Draft resolution E/CN.4/Sub.2/1993/L.37 (Situation of human rights in Peru)

68. Draft resolution E/CN.4/Sub.2/1993/L.37 was adopted without a vote.

69. Mr. DESPOUY said that he wished to highlight the open-mindedness of the Peruvian delegation. The draft resolution had been the result of a dialogue between the delegation, the Peruvian authorities and the Peruvian organizations for the protection of human rights. That was a commendable precedent.

70. Mr. JOINET said that he wished his name to be added to the list of sponsors of the resolution in order to record his satisfaction at the open-mindedness displayed by the Peruvian delegation.

71. Mr. EIDE said that the resolution was a precedent which should be followed in the cases of internal conflicts, for example, in Colombia, Turkey or Sri Lanka. He hoped that, in future, Governments would be willing to participate in that kind of process.

The meeting rose at 6.20 p.m.